

1999 DRAFTING REQUEST

Bill

Received: **09/09/1998**

Received By: **nilsepe**

Wanted: **As time permits**

Identical to LRB: **97-3485**

For: **Revisor of Statutes**

By/Representing: **Bruce Hoesly**

This file may be shown to any legislator: **NO**

Drafter: **fasttn**

May Contact:

Alt. Drafters: **nilsepe**

Subject: **Transportation - highways**

Extra Copies: **PEN - 1**

Pre Topic:

No specific pre topic given

Topic:

Revisor's update of ch. 80; laying highways

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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P.A.s.
please send
the 1
to Gordon
Anderson
at
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Thomson
Catherine

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See Attached

PA's,
please submit one
single-sided copy,
plus the original
rough copy, to
the revisor's ofc.

Thanks
CMT

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		1/1 JG 3/19	10/22	1/11			
			3/10	3/11			
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P.A.'s 0115/11
① Send rough copy
and and one
singlesided copy
of this draft
to the Revisor's
Ofc.
KG

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0115/P1dn
PEN:kmg:jf

March 11, 1999

Bruce Munson:

1. Please read closely the first sentence of proposed s. 80.12 (3). I'm not sure that it does not change current law.

2. Please review closely your treatment of s. 80.32. This section is ambiguous and I do not know whether you have changed its meaning. Specifically, in s. 80.32 (4), are the "rights incidental thereto", rights in the easement, or in the highway? Your draft decides that those rights are incidental to the highway, not to the easements. This section should probably not be treated unless you are certain of your interpretation. I have not researched case law on s. 80.32.

Paul E. Nilsen
Legislative Attorney
Phone: (608) 261-6926



Bruce: Please return this rough copy to the
State of Wisconsin LRB for its files.
1997 - 1998 LEGISLATURE

LRB 8485/P1

BEM.....

WED, if possible

Chris
Jg/kg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Bruce: You
may want to
proof the
statutes in this
bill with the
statutes. KMG

WFO
proof all
amended
sections w/stats.

0115/P1
BEM
PEN: ↑

Bruce: As you can
see by the rough copy,
you need to proofread
the draft VERY
CAREFULLY.

T-noro
↑

Insert
A
do not gen
1 AN ACT... relating to: ~~WFO~~

Analysis by the Legislative Reference Bureau

INSB →

The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:

- 2 SECTION 1. 80.04 (1) of the statutes is amended to read:
- 3 80.04 (1) No supervisor ^{plain space} shall ^{may} act in laying out, altering, widening or
- 4 discontinuing any highway in which the supervisor may be personally interested.
- 5 If one supervisor is interested the other two ² supervisors shall act; if two. If 2
- 6 supervisors are interested the third ^{3rd} supervisor shall act in the matter.

NOTE: Shortens sentences, replaces word form of numbers with digits and replaces
language for greater readability and conformity with current style.

- 7 SECTION 2. 80.04 (2) of the statutes is amended to read:
- 8 80.04 (2) Whenever there shall be less than two ^{is only one supervisor in a} supervisors in any town, the
- 9 petition ^{application} authorized by s. 80.02 may be made to the county board, which shall

1 thereupon ^{promptly} appoint a committee of three 3 of its members. Said The committee shall
 2 proceed and act upon such ^{application} ~~the petition~~ in the same manner and with the same powers
 3 in every respect as the supervisors of such the town might do.

NOTE: Replaces word form of numbers with digits and replaces language for greater readability and conformity with current style.

4 SECTION 3. 80.08 of the statutes is amended to read:

5 **80.08 Width of highways.** Except as ~~otherwise expressly~~ ⁱⁿ provided by s. 80.13,
 6 highways shall be laid out at least three 3 rods wide, and when no width is specified
 7 in the order the highway shall be 4 rods wide.

NOTE: Replaces word form of numbers with digits.

8 SECTION 4. 80.11 ⁽¹⁾ of the statutes is amended to read:

9 80.11 (1) Whenever it ~~shall be deemed~~ ^{is} considered necessary to lay out, alter,
 10 widen or discontinue a highway upon the line between two 2 towns, or extending
 11 from one town into an adjoining town, it shall be done by the supervisors of said the
 12 2 towns acting together, and if such. If the highway is laid out or altered it may be
 13 either upon or as near to the town line or as near thereto as the situation of the
 14 ground will admit; ~~and they.~~ ^{of the 2 towns acting together} The supervisors may vary the same location on either
 15 ~~on one side or the other~~ of such the town line as they ~~may deem~~ consider to be

16 necessary.

17 ^{Sec. 4. RA; 80.11(2); 80.11(2)(a)(intro)} The An application therefor to lay out, alter, widen or discontinue
 18 a town line highway under this section shall be: ^{under sub (1)}

- 19 1. ~~Executed in~~ ⁱⁿ duplicate, addressed = in all of the following
 20 2. Addressed to the supervisors of both towns, and be signed = strike
 21 3. Signed by at least 6 resident freeholders in each town, and be delivered.
 22 4. Delivered to a supervisor or the clerk of each town.

80.11

1 (b) ~~intro.~~ Upon receipt of such an application under par. (a) the supervisors
 2 shall promptly fix a ~~and~~ give notice of the time and place for deciding thereon, and
 3 give notice thereof the application will be decided. The notices of the time and place
 4 of meeting notice shall be signed: *all of the following*

- 5 1. Signed by a majority of the supervisors of each town, and published ~~and~~ *strike*
 6 2. Published as a class 2 notice, under ch. 985, in said each of the towns, and
 7 served. *where*
 8 3. Served as required by s. 80.05. *plain space*

9 (c) A majority of the supervisors of each town shall meet jointly at the time and
 10 place named in the notice under par. (b) to decide upon such the application and *to* sign
 11 the order and the award of damages, and in all other things the. The proceedings
 12 shall be the same as are required by law in laying out, altering, widening or
 13 discontinuing highways located wholly within a one town. The orders, awards,
 14 notices and all papers shall be in duplicate, and one duplicate of each shall be filed
 15 with each town clerk, and the. The order shall be recorded in each town clerk's office.

16 ~~intro.~~ *plain* The said supervisors, upon laying out, altering or widening such
 17 highway may determine, in the order, ~~intro.~~ under *sub (2)* (c) may designate what
 18 part of such the highway shall be made and kept in repair by each town, and what
 19 share of the damages, if any, shall be paid by each; and each. Each *town* shall have
 20 all the rights and be subject to the liabilities in relation to the part of such the
 21 highway to be made or repaired by it as if it were wholly located in such that town.
 22 If no such apportionment shall have been made in the order laying out, altering or
 23 widening such highway or any part thereof; or if such highway or any part thereof
 24 shall have had its origin in user; or if in the judgment of said supervisors
 25 circumstances have so altered since the last previous apportionment or

SECTION # RA; 80.11 (3); 80.11 (3)(a)

1 reapportionment of such highway or any part thereof as to render the same
2 inequitable or impracticable, a

3 ~~(b) (1) (intro.)~~ ^{(b) X} A majority of the supervisors of each town, meeting together,
4 may make such an order in accordance with ~~sub. (2) (a)~~ ^{par. (a)} apportioning or
5 reapportioning such a town line highway or any part thereof as of the highway that
6 they ~~may deem~~ [↓] consider advisable, which if any of the following conditions exist: ^(S)

7 a. No apportionment has been made in an order laying out, altering or widening
8 the highway or a part of the highway. ^{had its origin in}

9 b. The highway or a part of the highway originated through user.

10 c. In the judgment of the supervisors circumstances have been so altered since
11 the last apportionment of the highway or part of the highway that the apportionment
12 has been rendered inequitable or impracticable.

13 2. An order made under this paragraph [✓] shall be filed as hereinbefore provided.
14 ~~When so made such order in sub. (2) (c) and~~ [✓] shall be of have the same force and effect
15 as an order made in connection with the original laying out of such the highway.

16 ~~Any written order or agreement made before August 27, 1947 made by a~~ ^(c)
17 majority of the supervisors of each town concerned, acting together, apportioning or
18 reapportioning a town line highway ^{is hereby validated} and shall be of have ^{has} the same
19 force and effect as though made after said date August 27, 1947. ^{plain} ^{Where flowage}
20 crosses and covers a portion of a town line road, then that part of such order which

21 ~~previously fixed their respective liabilities shall be deemed vacated~~ ^{plain period}

22 ~~80.117 (4) (a) (intro.) If by any change of the boundaries of either or both such towns~~
23 including that caused by flowage the The part of an order fixing the liabilities of
24 towns in regard to a town line highway shall be considered vacated in the event of
25 the occurrence of any of the following: ^{lower}

SECTION # RA; 80.11 (4); 80.11 (4) (a) (intro.)

1 1. The territory of either shall be town is increased or diminished, or in the
2 event ~~a~~ by a change of the boundaries of either ~~or both towns~~ ^{town} including a change
3 caused by flowage. ^{no striking}

4 2. A portion of said the town line highway is ~~or has been~~ ^{is} taken over by the state
5 or county under the state or county highway system, or if a.

6 3. A new town or village be ~~has been~~ ^{is} formed out of a part of the territory of either
7 or both of said the towns, having a portion of such the town line highway within its
8 borders or if a. ^{plain}

9 4. A portion of a town line road highway is crossed and covered by flowage, that
10 part of such order fixing their liabilities shall be deemed vacated, and a.

11 ~~(b) In the event of the vacation of an order or part of an order under par. (a),~~
12 ~~a majority of the supervisors of each such town party to the order shall, before the~~
13 ~~time for making the next tax roll, meet together with and, in the event a vacation~~
14 ~~under par. (a) 3, a majority of the supervisors of such the new town or with the~~
15 ~~president of such the new village, shall, before the time for making the next tax roll,~~
16 ~~meet and all of them when so convened shall, if they can agree, attempt to make a~~
17 ~~new order apportioning the liabilities on account of such the highway, which shall~~
18 ~~be filed as hereinbefore provided in sub. (2) (c).~~ ^{with an agreement is reached}

19 ~~# 80.11~~ (5) If they fail to make such order no agreement is reached under sub. (4) (b),
20 or if the an order laying out, altering or widening such a town line highway shall has
21 not have apportioned the liability of the towns or village on account of such the
22 highway, the supervisors of either an affected town or the president of said an
23 affected village, after ten ¹⁰ days' notice of the time and place of so doing hearing
24 served on the clerk of each town and village to be affected, may apply to the circuit
25 judge of the county in which such towns and village or the applying town or village

SECTION # ^(AM) 80.11 (5)

affected

SECTION # AM; 80.11(6) and (7)

on whose behalf such notice is given is located, for the appointment of three 3 commissioners to apportion the liabilities of such towns each affected town and village on account of such a the town line highway.

¶ 80.11(6) Upon ~~proper~~ application under sub. (5) such the circuit judge shall appoint three 3 residents of such the county as commissioners. They The commissioners shall proceed, on not less than five 5 days' notice in writing to the clerk of each town and village clerks affected, to make such apportionment, and their apportion the liabilities on account of the highway. The commissioners determination shall be made in writing and filed with the clerk of each town and village affected, and The commissioners' determination shall have the same force and effect as an order of the supervisors, and the village president made under sub. (2), (3) or (4).

(7) Any bridge on a highway that became a highway as a result of having been used and worked as provided in s. 80.01 (2) that is between two 2 towns, or between a town on one side and a village or a town and village on the other side, which highway has become such by reason of having been used and worked as provided in s. 80.01 (2), which bridge that has not been assigned to either of the adjoining towns or village, shall be repaired and maintained by such the affected towns and village, and the. The cost of repairs and maintenance shall be paid by them the affected adjoining towns and village in proportion to the valuation of the property therein in the affected adjoining towns and village as equalized by the county board or boards at the last equalization.

80.11 (8) (a) Unless Except as provided in sub. (7) or unless otherwise provided by statute or agreement every highway bridge on a town, village or city boundary shall be maintained by the municipalities in which it is located, each

SECTION # RA; 80.11(8); 80.11(8)(a)

comma should stay on line 13, after "worked"; move it to that location.

WFO.

plain space

the bridge

contributing to the expenses thereof in proportion to the last assessment of taxable property therein. Provided, however, that any

(b) ~~Any bridge, or bridges, over any stream or river forming the boundary line between two 2 counties erected or maintained solely by one of the adjoining municipalities, may be closed or discontinued by such the municipality so maintaining the same when such bridge if the adjoining municipality shall fail fails to cooperate in such the maintenance in of the bridge in the following manner.~~ ^{other} ^{contribute towards} ^{Proportion} ✓

1. In proportion to the amount of the cost thereof ^{erecting} of the bridge borne by said ^{the adjoining} municipality that does not maintain the bridge, if the bridge was erected at the joint expense of the two 2 adjoining municipalities; or, if not so erected, then in.

2. In the proportion of one-half the cost of such maintenance, ^{plain A} if the bridge was not erected at joint expense.

NOTE: Subdivides provision, reorders text, deletes redundancies, replaces word form of numbers with digits and replaces language for greater readability and conformity with current style.

SECTION 5. 80.12 of the statutes is ^{renumbered 80.12(1) and} amended to read:

plain 80.12 Highways on and across town and municipal boundaries. (1) ^{NO SCORING}

Whenever it is deemed considered necessary to lay out, alter, widen or discontinue a highway upon the line between a town and city or village or ^{to} lay out, alter, widen or discontinue a highway or any part thereof ^{of} a highway extending from a town to a city or village ^{the} proceedings ^{for that} therefor may be had under s. 80.11. The application ^{strike} therefor ^{for any part of the highway} to lay out, alter, widen or discontinue the highway shall be in duplicate, addressed to the supervisors of the town and the common council of the city or the board of trustees of the village, and be signed by at least 6 freeholders of the town and 6 freeholders of the city or village. Thereupon such

(2) The common council or board of trustees shall appoint 3 commissioners on the part of such the affected city or village, who. The commissioners shall be duly sworn to ^{faithfully} ~~faithfully~~ discharge their duties as such commissioners before entering on the same. ~~Such their duties.~~ The commissioners and town supervisors shall then give notice and proceed in all respects as provided in s. 80.11; and such.

(3) The city or village ~~shall be in like manner as a town~~ ^{is} responsible for that part of such the affected highway ^{at} determined to be made and kept in repair by the same the city or village and for the share of damages assigned to the same city or village. The cost of repairs, improvement and maintenance of any highway laid out on a line between a city and a town or village or located on one or the other side of the line may be at the expense of such the adjoining municipalities and the apportionment may be made as provided in s. 80.11-(3) to (6).

(4) The town board, and village board and or city council may cause any such highway or any part of such a highway subject to the provisions of this section, which is not less than 16 rods in length, to be graded, paved, macadamized or otherwise improved, including the establishment of the grade ^{plain space} ~~and the~~ construction of the curbs and gutters, and installation of water and sewer mains and service pipes, or either, ~~and.~~ The town board and village board or city council may levy special assessments for the whole or any part of the cost thereof of the improvements as a tax upon such the property as that they shall determine as is especially benefited thereby by the improvements, in the manner provided in s. 66.60.

(5) All proceedings and orders required to be filed and recorded shall be filed and recorded in the office of the ^{clerk of the} ~~affected city or village clerk as well as in the office~~ of the ^{or} ~~town clerk.~~

NOTE: Subdivides provision and replaces language for greater readability and conformity with current style.

SECTION 6. 80.13 (1) of the statutes is amended to read:

80.13 (1) When any person ^{plain} ~~shall present to~~ ^{plain space} ~~presents~~ the supervisors ^{town board} ~~town~~ board of any town with an affidavit satisfying them that that person is the ^{owner} ~~owner~~ which meets the requirements under sub. (1m) and satisfies the supervisors that the facts stated in the affidavit are ~~true~~ ^{for widening}, the supervisors shall set a time and place to conduct a hearing regarding the laying out of a highway ^{or widening} ~~or widening of a right-of-way~~. The hearing shall be ^{held not more than} ~~after 10 days and not more than 30 days~~ ^{after the town board receives} ~~after the affidavit is filed~~ with the supervisors. Notice of the time and place of the hearing shall be served as required by s. 80.05 and published as a class 2 notice under ch. 985.

(1m) ~~The~~ The affidavit required under sub. (1) shall be executed by the owner or lessee of real estate (describing the same) located within said the town, shall

contain a description of the affected real estate and ~~and~~ shall contain facts that

demonstrate the existence of either the circumstance described in par. (a) or the

circumstance described in par. (b): ^{satisfy the supervisors that any of the following} ~~(circumstances exist)~~ ^{exists}

(a) ^{that} ~~The~~ real estate described in the affidavit ^{is} ~~is~~ shut out from all public highways, other than a waterway, by being surrounded on all sides by real

estate belonging to ^{owned by other persons, or by such real estate owned by other} ~~owned by other persons, or by such real estate owned by other~~

persons and by water, ^{that} ~~and~~ the ^{owner or lessee} ~~owner or lessee~~ is unable to purchase a right-of-way from the

^{adjoining} ~~adjoining~~ real estate to a public highway or a right-of-way cannot be purchased

except at an exorbitant price, which price shall be stated in the ~~the~~ affidavit or that

that person is the owner or lessee of real estate (describing the same) ~~and~~ ^{plain}

(b) 1. ^{owner or lessee} ~~The~~ ^{is} ~~is~~ the owner of a private way or road leading, whose width

shall be stated in the affidavit, that leads from said the described real estate to a

SECTION 6

1 public highway but ^{way or} ~~that such the road or way~~ ^{plain space} is too narrow, giving its width, to afford
 2 that person ~~the~~ ^{owner or lessee} reasonable access to and from said ~~the~~ ^{the} described real estate
 3 to said ~~the~~ ^{owner or lessee} public highway, ~~that and that person~~ ^{owner or lessee}; and

4 2. The ~~person~~ ^{owner or lessee} is unable to purchase from any of said persons ~~the~~ ^a right-of-way
 5 over or through the same ~~from the~~ ^{the} described real estate to a public highway, ~~or that~~
 6 that person ~~is~~ ^{is} unable to purchase from the owner or owners of land on either
 7 or both sides of that person's ~~the~~ ^{owner's or lessee's} way or road land to make such ~~the~~ ^{the} way or
 8 road of sufficient width; ~~or that it~~ ^{or that it} the right-of-way or additional land cannot be
 9 purchased except at an exorbitant price, ~~stating the lowest~~ ^{stating the lowest} which price for which the
 10 same ~~the~~ can be purchased, the said supervisors shall appoint a time and place for
 11 hearing said matter, which hearing shall be after ten days and within thirty days of
 12 the receipt of said ~~stated in the~~ ^{stated in the} affidavit.

13 SECTION 7. 80.13 (2) of the statutes is repealed.

NOTE: The text of sub. (2) is made a part of sub. (1) by this bill.

14 SECTION 8. 80.13 (3) of the statutes is renumbered 80.13 (3) (a) ~~and~~ ^{and}
 15 amended to read:

16 80.13 (3) (a) ~~the~~ ^{town board} The supervisors shall meet at the appointed time and place
 17 and ~~designated~~ ^{stated} in the notice given under sub. (1) and shall then in their discretion
 18 proceed to lay out such a highway of not more than three nor less than two ~~2~~ ² nor more
 19 than 3 rods in width from the public highway to such the real estate, described in the
 20 affidavit under sub. (1) (a) or (b) by ~~either of the following:~~ ^{or shall add by}
 21 ~~no 1) Laying a new highway across the surrounding land~~ ^{out}
 22 ~~2) Adding enough land to its~~ ^{the} the width of the existing way or road described in
 23 the affidavit under sub. (1) (b) to make it a highway of not less than two ~~2~~ ² nor more
 24 than three 3 rods in width, and.

WPO: proofread all of 16 to 18 again; many changes made.

1 ~~(b) The supervisors~~ ^{town board} shall assess the damages to the owner or owners of the real
 2 estate over or through which the same highway shall be laid or from whom land shall
 3 be taken and the advantages to the applicant. ~~Damages assessed by the supervisors~~
 4 ~~shall in no case exceed the price stated in the affidavit of the applicant.~~ ^{The town board may not assess damages in any amount exceeding} ~~any~~

NOTE: Moves sentence regarding the award of damages from sub. (4) to sub. (3) for more appropriate placement. Reorders text, replaces word form of numbers with digits and replaces language for greater readability and conformity with current style.

5 SECTION 9. 80.13 (4) of the statutes is amended to read:

6 80.13 (4) ~~But the damages assessed by the supervisors shall in no case exceed~~
 7 ~~the price stated in the affidavit of the applicant; upon~~ ^{Upon} laying out such a
 8 highway, or in adding to the width of a former private way or road, they under sub.
 9 ~~(3) the supervisors~~ ^{town board} shall make and sign an order describing the same ~~the~~ ^{to} laid out
 10 highway and file the same order with the town clerk together with their ^{award of}
 11 damages, which. The order shall be recorded by said the clerk; ^{provided, that} the
 12 amount assessed as advantages to the applicant ~~under sub. (3) shall be~~ ^{is} paid to the
 13 town treasurer ~~before the order laying out such highway shall be filed.~~

NOTE: Moves sentence regarding the award of damages from sub. (4) to sub. (3) for more appropriate placement. Divides provision into multiple sentences and replaces language for greater readability and conformity with current style.

14 SECTION 10. 80.13 (5) of the statutes is amended to read:

15 80.13 (5) Whenever a parcel of land in any town which is accessible, or provided
 16 with a right-of-way to a public highway, is subdivided and the owner thereof sells
 17 and transfers a any part thereof or sells a of the subdivided parcel of said land by
 18 metes and bounds, ^{that} ~~which part or parcel~~ would otherwise be landlocked and shut out
 19 from all public highways ~~other than a waterway,~~ by reason of being surrounded on
 20 all sides by real estate belonging to other persons or by such real estate belonging to
 21 other persons and by water without an adequate right-of-way to a public highway,

1 the seller shall ~~in so subdividing said land or a part thereof or in selling a parcel of~~
2 said land by ~~metes and bounds~~ provide a cleared right-of-way at least 50 feet in
3 width ~~which~~ ^{that} shall be continuous from the highway to ~~each the part, parcel, lot or of~~
4 ~~the~~ subdivision sold. In case the seller fails to ~~do so~~ provide the required
5 right-of-way, the town board may, pursuant to proceedings under this section, lay
6 out a road from ~~such the~~ inaccessible land to the public highway over the remaining
7 lands of the seller without assessment ~~to the latter~~ of damages or compensation
8 therefor to the seller.

NOTE: Deletes redundant language and inserts specific references.

9 SECTION 11. 80.23 of the statutes is amended to read:

10 **80.23 Removal of fences from highway; notice.** (1) Whenever pursuant
11 to this chapter, [✓]any highway is laid out, widened or altered through ~~inclosed~~
12 enclosed, cultivated or improved lands and the determination has not been appealed
13 from, the highway authorities shall give the owner or occupant of ~~such the~~ lands
14 written notice ~~in writing~~ to remove the fences located ~~thereon~~ on the highway within
15 ~~such a time as they shall deem determined by the highway authorities to be~~
16 reasonable, but not less than 30 days after giving ~~such the~~ notice; ~~and if~~. If the owner
17 or occupant does not remove the fences within the time required ~~in such by the~~ notice ²
18 the highway authorities shall ~~cause~~ ^{remove} the fences ~~to be removed~~ and ~~shall~~ direct the
19 highway to be opened; ~~but if~~. If the determination has been appealed from, the notice
20 shall be given after the final decision of the appeal.

21 (2) This section does not authorize the opening of a highway through ~~such~~
22 ~~enclosed~~ ^{cultivated or} ~~improved or cultivated~~ lands or the removal of fences between May 15 and
23 September 15, except in cases of emergency to be determined by the highway
24 authorities.

NOTE: Divides long sentence and replaces language for greater readability and conformity with current style.

SECTION 12. 80.24 (1) ^{are} (2) and ~~the~~ of the statutes ^{is} amended to read:

~~80.24 Appeal from award of damages by owner.~~ (1) Except as provided

in sub. (2), an owner of lands through which a highway is laid out, widened, altered

or discontinued ~~under this chapter~~ who is not satisfied with the award of damages

under s. 80.09 may, within 30 days after the filing of the award, appeal to the circuit

judge court of the county for a jury to assess the damages.

(2) ~~An~~ If an order to lay out, widen, alter or discontinue a highway has been

affirmed on appeal under s. 80.17, an owner of lands through which a the highway

is was laid out, widened, altered or discontinued ~~who has appealed under s. 80.17~~

from the ~~an~~ order laying out, widening, altering or discontinuing the highway and

who is not satisfied with the award of damages under s. 80.09 may, within 30 days

after the entry of a final order on the appeal ~~affirming the order under s. 80.17,~~

appeal to the circuit judge court of the county for a jury to assess the damages.

~~(5) The appellant shall serve written notice on 2 of the supervisors of the town~~

in which the highway is situated, or upon 2 or more of the supervisors or

commissioners of the town, city or village ~~who have been assigned the duty of that~~

is responsible for paying the damages for the land. The notice shall be served at least

6 days before making the appeal, ~~a the application for jury will be heard. The notice~~

in writing, specifying shall state the following:

(a) The name of the judge to whom the appeal who will be made.

(b) The hear the application and the time when the appeal will be made.

(c) The and place where the appeal will be made of the hearing

NOTE: Corrects cross-references and makes language consistent with s. 80.23. See the next section of this bill.

SECTION 13. 80.25 of the statutes is amended to read:

80.25 Taxpayer may appeal; service of notice. (1) Any taxpayer of a town

or other municipality in which a highway is laid out, altered or discontinued or any part thereof is situated, and which is required to pay damages resulting therefrom from the laying out, alteration or discontinuation, may appeal, within 30 days after

the award or agreement determining the damages has been filed with the town, city or village clerk, appeal to the circuit judge court of the county for a jury to assess the damages sustained by the persons to whom damages were awarded or are to be paid.

(2) The appeal under this section shall be in writing, describing the premises and naming the persons to whom damages are to be paid, and the amount awarded to each, and shall specify the particular award from which the taxpayer appeals in case he or she does not appeal from all. The appellant shall serve written notice of

the appeal upon 2 of the supervisors of the town or upon 2 of the commissioners of the city or village to which has been assigned the duty of that is responsible for paying the damages and upon the persons whose awards are appealed from.

(3) The notice shall be served at least 6 days before making application, a notice in writing specifying therein for jury will be heard. The notice shall state the name of the judge to whom and who will hear the application and the time and place appellant will apply for the selection of the jury of the hearing.

NOTE: Subdivides provision, reorders and replaces language for greater readability and conformity with current style and consistency with s. 80.24. See the previous section of this bill.

SECTION 14. 80.26 of the statutes is amended to read:

80.26 Appeal bond. The appellant under s. 80.24 or 80.25 shall execute to the proper town, city or village and file with the judge circuit court a bond with one or more sureties to be approved by such the circuit judge. In case the appeal is by a

landowner ~~under s. 80.24~~ the bond shall be conditioned to pay all costs arising from
 such ~~the~~ appeal if the jury shall ^{do} not award the appellant an increase of damages. In
 case of an appeal by a taxpayer ~~as such~~ ^{80.25} under s. ~~80.24~~, the bond shall be conditioned
 that the appellant shall pay all costs arising from such ~~the~~ appeal if the amount of
 damages in the aggregate of the items appealed from ~~shall~~ ^{is} not be diminished ~~upon~~
^{by} the appeal.

NOTE: Inserts cross-references and replaces language for greater clarity and conformity with current style.

SECTION 15. 80.27 of the statutes is amended to read:

80.27 Selection of jury; penalty for refusal to serve. (1) Upon the filing
 of the bond required under s. 80.26 and ~~the~~ notice ^{at the appeal} required under s. ~~80.24~~ with proof
 of service thereof of the notice, the jury shall be selected in the following manner:

(a) The judge shall make out a list of 15 disinterested resident freeholders of
 the county, not of kin to the owner or occupant of the lands.

(b) Each party ^{in turn} shall strike ^{a person from the list until each party has struck} 5 persons from such the list, and if none of the proper
 supervisors or commissioners or other appellee a party is ~~not~~ present, the judge shall
 strike off the 5 names for them, ^{and the missing party} and the missing party.

(c) The judge shall ~~thereupon~~ issue an order to the sheriff or some constable of
 the county to summon the 5 persons ~~named in such list and whose names were not~~
 stricken off to under par. (b) to meet at a time and place to be specified in such the
 order to appraise the damages, the award of which has been appealed from.

(2) In case any juror fails to appear at the time and place fixed for ~~their~~ ^{the} meeting
 another juror shall be summoned in the missing juror's place.

(3) Any juror may be excused for good cause, and if any. Any juror duly
 summoned ^{under s. 80.25} and not excused ^{who is} who fails to serve that juror shall forfeit ~~an amount not~~

to exceed \$10, and shall be liable to the party having the costs of the appeal to pay for additional costs ~~made in consequence of such~~ resulting from the juror's failure to serve.

NOTE: Subdivides provision, inserts cross-references and replaces language for greater clarity and conformity with current style.

SECTION 16. 80.28 of the statutes is amended to read:

80.28 Proceedings before jury; costs. (1) The jury selected under s. 80.27 shall be sworn by the judge to justly and impartially ~~to make such the~~ plain appraisal, and of damages, ~~the award of which has been appealed from.~~ from which award the appeal is taken. The jury shall proceed to view such the highway subject to the appealed order and hear the statements and proofs of the parties, ~~and such.~~ The jury may increase or ~~diminish~~ decrease the amount awarded, and they shall sign and make return of their appraisal to the judge signed by them; and in.

(2) (a) In case of appeal by a landowner if the jury shall increase the award, the costs and expenses of the proceedings shall be paid by the proper town, city or village; but the jury shall if the amount awarded is increased and by the appellant if the amount awarded is not increased the costs and expenses shall be paid by the appellant, and in increased.

(b) In case of an appeal by a taxpayer if the award appealed from is diminished, the costs and expenses of the proceedings shall be paid by the town, city or village, otherwise if the amount awarded is decreased and by the appellant if the amount awarded is not decreased.

(c) In case of cross-appeals if the damages involved therein are unchanged each appellant shall pay half of said the costs and expenses of the proceedings.

50%

(3) If the jury shall fail fails to agree and be is discharged by the judge for that reason, the judge shall immediately proceed to make ^{select} another list of such freeholders ^{jury under this section and} in accordance with s. 80.27 (1) ~~and~~ and further proceedings shall be had thereon on the appeal under s. 80.27 and this section in all respects as in the case of a first jury.

(4) (a) When the jury ^{plain space} ~~has made a return of their~~ appraisal to the judge, the judge shall adjust the costs and expenses of such the proceedings, and within 10 days thereafter return such the appraisal to the town clerk, together with all the other following, which shall be filed by the clerk:

1. All papers relating to such the appeal, a.
2. A statement of the proceedings had before the judge, and.
3. A detailed statement of the cost and expenses in detail, duly of the proceedings certified by the judge, which shall be forthwith filed by the clerk; and if two

(b) If 2 towns or a town and a city or village be are interested, the judge shall make and file a certified copy of the appraisal papers and statements with the clerk of such other ^{each interested} town, city or village ~~not receiving the original~~.

NOTE: Subdivides provision, inserts cross-references, replaces word form of number with digit and replaces language for greater clarity and conformity with current style.

SECTION 17. 80.29 of the statutes is amended to read:

80.29 Appeal costs; jurors' fees. Each juror who serves under s. 80.28 shall receive \$3 for services and 10 cents a mile for actual and necessary travel in going to and returning from the place of meeting, ^{costs under this section are} payable in advance by the party appealing, and to be ^{are} a charge against the party finally liable for the costs. ^{of the proceeding}

NOTE: Inserts cross-reference for greater clarity.

SECTION 18. 80.32 (4) of the statutes is renumbered 80.32 (4) (a) (intro.) and amended to read:

80.32 (4) (a) Whenever any public highway or public ground has been vacated or discontinued the, any easements and incidental rights incidental thereto acquired by or in the discontinued highway or ground belonging to any county, school district, town, village or city or to any utility or person in relating to any underground or overground structures, improvements or services and all rights of entrance, maintenance, construction and repair of the same structures, improvements or services shall continue, unless one of the following applies:

1. The owner of the easements and ^{incidental} rights gives written consent to the discontinuance of such the easements and rights by the owner thereof is as a part of the vacation or discontinuance proceedings and reference thereto to the owner's written consent is made in the vacation or discontinuance resolution, ordinance or order, or discontinued by failure.

2. The owner of the easements and ^{incidental} rights fails to use the same easements and rights for a period of 4 years from the time that the public highway or public ground was vacated or discontinued. Upon the failure of the interested parties to reach an agreement permitting discontinuance of such

(b) ~~The easements and rights or upon refusal of the owner of such easements and rights to give written consent to the discontinuance thereof, such easements and rights described in par. (a) may be discontinued in the vacation or discontinuance proceedings in any case where benefits or damages are to be assessed as herein provided. in par. (c), in the event one of the following applies:~~

(c) Damages for the discontinuance of such the easements and rights, in the described in par. (a) shall be assessed against the land benefited in the proceedings

1 for assessment of damages or benefits upon the vacation or discontinuance of the
2 public highway or public ground. The amount of the damages shall be the present
3 value of the property to be removed or abandoned, plus the cost of removal, less the
4 salvage thereon. ^{removed or} ~~value of the abandoned or removed property or in such any other~~
5 amount ^{that} ~~may be agreed upon between the interested parties, shall be assessed~~
6 against the land benefited in the proceedings for assessment of damages or benefits
7 upon the vacation or discontinuance of the public highway or public ground. The
8 owner of such the easements and ^{incidental} ~~rights, upon application to the treasurer and upon~~
9 furnishing satisfactory proof shall be entitled to any payments of or upon such the
10 assessment of damages.

11 (d) Any person aggrieved by such the assessment of damages under this
12 subsection may appeal therefrom the assessment in the same time and manner as
13 is provided for appeals from assessments of damages or benefits in vacation or
14 discontinuance proceedings in the town, village or city.

NOTE: Subdivides provision, repositions text and deletes redundant and outdated language for greater readability and conformity with current style.

15 SECTION 19. 80.32 (4) (b) 1. and 2. of the statutes are created to read:

16 80.32 (4) (b) 1. The interested parties fail to reach an agreement permitting
17 discontinuance of the easements and rights. ^{incidental}

18 2. The owner of ^{those} ~~such~~ easements and rights ^{check} to give written consent to their
19 discontinuance. ^{refuses}

NOTE: Recreates language to reposition text in s. 80.32 (4). See the previous section of this bill.

20 SECTION 20. 80.37 of the statutes is ^{renumbered 80.37(1) and} ~~amended to read:~~

21 80.37 ^{plain} ~~Lost records; how restored, effect.~~ (1) Whenever the record of the
22 laying out of any highway ~~has been or shall be~~ ^{is} lost or destroyed the supervisors of

1 the town in which such the highway is situated may, upon notice being served on all
2 interested parties in accordance with s. 80.05, make a new record thereof of the
3 highway by a written order, which shall be entered on the town records. Whenever
4 the supervisors shall contemplate making such new record they shall make a The
5 notice and shall fix therein a when time and place at where which they the supervisors will
6 meet and decide upon the same, which making the new record. The notice shall
7 specify as near as may be the highway as to for which they propose to make such the
8 proposed record will be made. Such notice shall be served as provided by s. 80.05;
9 but notice Notice need not be given to such persons as who waive the same notice or
10 consent to the making of the order either before or after it is entered.

11 (2) The supervisors shall meet pursuant to the notice given under sub. (1) and
12 hear any arguments or evidence that may be offered for or against the proposed new
13 record, and thereupon make a new record as they deem consider proper. They The supervisors
14 may adjourn from time to time, and an entry of each adjournment shall be made in
15 the record by the town clerk. If they the supervisors find that the highway is a legal
16 one highway the record whereof of which is lost or destroyed, they shall make an a
17 written order determining such stating those facts and specifying the course, width
18 and other pertinent description of the highway, and such. The order shall be filed
19 and recorded in the office of the town clerk, who shall note the time of recording it
20 in the record. Any number of highways may be included in one such notice or order,
21 and a under this section. A failure or refusal to make a new record for any highway
22 shall not preclude a subsequent proceeding for that purpose.

23 (3) Any person through whose land such a highway shall pass described in an
24 order entered under sub. (2) passes may appeal from such the order on the ground
25 that the highway described therein in the order was not theretofore a legal highway

1 in fact. The appeal shall be made in the time and manner provided for appealing from
 2 orders laying out highways, and like proceedings, as near as may be, shall be had
 3 thereon on the appeal as in case of appeals from such orders laying out highways. *scored period*
 4 The regularity of such proceedings under this section shall not be called in question
 5 by any person except owners of land on whom such notice should have been served
 6 but on whom it was not in fact served, was not and persons claiming under such those
 7 owners.

NOTE: Subdivides provision, repositions text, inserts specific references and cross-references and deletes redundant and outdated language for greater readability and conformity with current style.

8 SECTION 21. 80.48 (3) of the statutes, as affected by Supreme Court Order No.
 9 ~~96-08~~, is renumbered 80.48 (3) (a) and amended to read:

10 80.48 (3) (a) At the time and place specified in the notice given under sub. (2).
 11 the circuit judge of the county, the president of the village or the chairperson of the
 12 town in which the land sought to be taken lies shall issue a precept directed to the
 13 sheriff of the county or to any constable, naming the sheriff or constable, which. The
 14 precept shall direct the officer sheriff or constable to write the names of 36
 15 freeholders of the county who are qualified to serve as jurors in the circuit court and
 16 to return the list. After being sworn to perform the duties required to the best of his
 17 or her ability, without partiality, the officer sheriff or constable shall immediately
 18 write the names and deliver the list thereof to the officer who issued the precept; and
 19 from. *from the list*

20 (b) From the list made under par. (a). each party, in person or by an agent or
 21 attorney, commencing with the petitioner, shall in turn strike out alternately 12 names, and *a name until each has*
 22 if. If either party is absent or refuses to strike out the names, the officer who issued
 23 the precept shall appoint some person to strike 12 names for the absent or *stricken*

1 nonparticipating person. The officer shall then summon the 12 persons whose names
2 remain on the list in the manner prescribed under s. 756.05 to appear at the time and
3 place mentioned in the summons for the purpose of determining the necessity of
4 taking for the public use the land described in the petition; ~~if~~. If any of the persons
5 summoned fail to attend others may be selected in the same ~~mode~~ manner to fill the
6 vacancy, and for that purpose the proceedings may be adjourned from time to time.

7 (c) When 12 persons ~~are thus~~ have been secured in accordance with par. (b),
8 they shall be sworn by the officer who issued the precept to ~~faithfully and impartially~~
9 discharge ^{faithfully and impartially} the duties imposed upon them, ~~which~~. The oath shall be filed with the city,
10 village or town clerk.

11 (d) The number of persons listed and summoned shall be proportionately
12 reduced if the jury is to consist of a number less than 12. (5)

NOTE: Subdivides provision, shortens sentences, reorders text, inserts cross-reference, and replaces language for greater readability and conformity with current style.

13 SECTION 22. 80.48 (4) of the statutes is renumbered 80.48 (4) (a) and amended
14 to read:

15 80.48 (4) (a) After the jurors selected under sub. (3) are sworn, the circuit or
16 municipal judge, president or chairperson shall issue his or her precept directed to
17 them and requiring that within 10 days they shall view the land specified therein and
18 ~~make return to him or her under their hands~~ ^{in the precept and issue a decision, signed by each} as to whether it is necessary to take it
19 ^{of the land} for public use as described in the petition; ~~the~~. The jurors shall, at a time to be fixed
20 by them, view the premises; ~~the parties~~ ^{the} interested shall have notice of the time and
21 may offer ^{to the jury} any evidence pertinent to the inquiry; ~~after viewing the premises and~~ ^{After}
22 hearing the evidence the jury shall determine whether a necessity exists for taking
23 the land and shall return ~~their~~ ^{di} verdict to the officer who issued the precept. (X)

(b) On the receipt thereof of the jury's verdict, the officer shall, as soon as may be possible, submit the same verdict to the council, trustees or supervisors, and for that purpose may call a meeting of either body and deliver the verdict to them; the body to which it the verdict is so delivered shall, if in their judgment the public good requires it, immediately make an order laying out a street or highway from the nearest street or highway which can be used as a convenient means of approach to the cemetery, fairground or land used for industrial expositions. The street or highway so laid shall not be less than 3 rods nor more than 4 rods in width, and.

(c) The body issuing the order under par. (b) shall in the order they appoint 3 disinterested residents of the county as commissioners who. The commissioners shall, after notice to the owners or occupants of the land and after being sworn to support the constitution of the United States and the constitution of this state and faithfully discharge their duties to the best of their ability, assess adequate damages to the owners of the land through which the street or highway is laid. The award of damages shall be signed by the commissioners and be returned to the city, village or town clerk.

NOTE: Subdivides provision, shortens sentences, inserts cross-references, and replaces language for greater readability and conformity with current style.

SECTION 23. 80.48 (5) of the statutes is amended to read:

80.48 (5) OPENING HIGHWAY. The street commissioner of such the city or village or the superintendent of highways of such the town, after ~~that~~ ^{who} made the order under sub. (4) laying out such the street or highway, ~~has been filed upon the filing of the order~~ ^{move} with the city, village or town clerk, shall forthwith immediately open the street or highway so laid, provided that the petitioner shall have paid to the city, village or town treasurer the damages awarded.

NOTE: Replaces language and inserts cross-reference for greater readability and conformity with current style.

SECTION 24. 80.48 (6) of the statutes is renumbered 80.48 (6) (a) and amended to read:

80.48 (6) (a) If ^{Any} ~~any~~ person through whose land ~~such~~ ^{may be it} a street or highway is laid or the petitioner shall be ~~dissatisfied~~ ^{may be it} with the damages awarded ² ~~under this section~~ ¹ either ~~may~~ ^{is} appeal to the circuit court of the county in which the land is situated. The appeal ~~shall be~~ ^{is} commenced by serving a notice of appeal and undertaking upon the opposite party, with at least ~~two~~ ² sureties, conditioned for the payment of all costs and damages which may be incurred if the appellant ~~shall not succeed; such~~ ^{does}. The notice and undertaking shall be filed with the city, village or town clerk, who shall be entitled to receive ~~two dollars~~ ² \$2 for fees in making return to the clerk of the circuit court as hereinafter required; ~~provided, that such appeal~~ ^{does} under par. (b). An appeal ~~made under this paragraph~~ ^{does} shall not impair the right of the public to use ~~such~~ ^{the} street or highway for the purpose of travel.

(b) Within ~~ten~~ ¹⁰ days after ~~such papers~~ ^{the notice and undertaking} are filed and ~~such~~ ^{the notice and} payment ~~of the fees is~~ ^{check spacing} made, the clerk with whom they ~~the notice and~~ ^{check spacing} undertaking are filed shall transmit the papers pertaining to the subject matter of the appeal to the clerk of the circuit court, who shall file them in the clerk of court's office, and upon ~~such~~ ^{the clerk of court}. Upon ~~filing~~ ^{with} the clerk of court, the appeal shall be considered ~~an action pending in such~~ ^{plain space} the circuit court, subject to a change of the place of trial and an appeal to the supreme court as in other actions. The appeal shall be entered upon the records by making the ~~party who took it~~ ^{circuit} appellant the plaintiff and the other party ~~the~~ defendant; it.

1 (c) The appeal shall be tried by a jury unless ~~such mode of trial~~ the jury is
2 waived, ~~and costs.~~

3 (d) Costs shall be allowed to the successful party, ~~and if. If the landowner is the~~
4 successful party ~~shall be the landowner~~ the costs shall be added to the judgment ~~and~~ ^{Set}
5 ~~if. If the petitioner is the successful party~~ the costs shall ~~be~~ [✓] petitioner be deducted
6 ~~therefrom~~ ^{Set} from the judgment. ³

NOTE: Subdivides provision, shortens sentences, replaces word form of numbers
with digits and replaces language for greater readability and conformity with current
style.

7 (END) ✓

TYPED

insert
A

An Act relating to repealing, consolidating, renumbering, amending and revising various provisions of the statutes for the purpose of correcting errors, supplying omissions, correcting and clarifying references, and eliminating defects, anachronisms, conflicts, ambiguities and obsolete provisions (Revision Bill).

Pg1Ln2
Pg1Ln3
Pg1Ln4
Pg1Ln5

Analysis by the Legislative Reference Bureau

AB970

INS
B

This bill is prepared pursuant to s. 13.93 (2) (j), stats., for the purpose of modernizing statutory structure and language in order to increase conformity with current statutory style and to improve user readability and accessibility. Throughout this bill, the word form of numbers is replaced by digits; disfavored language is replaced with preferred terms and spellings; long sentences and statutory units are subdivided or otherwise shortened; and nonspecific articles and references are replaced. Some punctuation has been changed to accommodate the other changes. ~~Notes~~ ^{that} provided by the revisor of statutes bureau in the body of the bill indicate the treatments that have been made to the specific statutory units. No substantive changes are intended.

(end insert)
B

WFO: use
anal: stdnote

For further information, see the

¶ (b) In the event an order or part of ^{an} an order is vacated under
par. (a), a

insert
5-100

Section # 80.11 (4) of the statutes is amended to read:

80.11 (4) If by any change of the boundaries of either or both such towns including that caused by flowage the territory of either shall be increased or diminished, or in the event a portion of said town line highway is or has been taken over by the state or county under the state or county highway system, or if a new town or village be formed out of a part of the territory of either or both of said towns, having a portion of such town line highway within its borders or if a portion of a town line road is crossed and covered by flowage, that part of such order fixing their liabilities shall be deemed vacated, and ^a majority of the supervisors of each such town ^{that is party to the order} shall, before the time for making the

next tax roll, meet together with a majority of the supervisors of such ^{the} new town or with the president of such ^{the new} village, and all of them when so convened shall, ^{attempt to} if they can agree, make a new order apportioning the liabilities on account of such ^{the} highway, which shall be filed as ^{in sub. (2)(c)} hereinbefore provided.

and, if the order or part of ~~the~~ order is vacated under
par. (a) 3. [✓] shall be joined by

(end insert)

INSEA
bms
4-21

Sec. #. CR; 80.11(3)(b) 1. a., b. and c.

1 ~~reapportionment of such highway or any part thereof as to render the same~~
 2 ~~inequitable or impracticable, a~~

3 ~~(b) I. (intro.) A majority of the supervisors of each town, meeting together,~~
 4 ~~may make such an order in accordance with sub. (2)(a) ^{par. (a)} apportioning or~~
 5 ~~reapportioning such a town line highway or any part thereof as of the highway that~~
 6 ~~they may deem consider advisable, which if any of the following conditions exist:~~

7 ~~a. No apportionment has been made in an order laying out, altering or widening~~
 8 ~~the highway or a part of the highway.~~

9 ~~b. The highway or a part of the highway ^{had its origin in} originated through user.~~

10 ~~c. In the judgment of the supervisors circumstances have been so altered since~~
 11 ~~the last apportionment of the highway or part of the highway that the apportionment~~
 12 ~~has been rendered inequitable or impracticable.~~

13 ~~2. An order made under this paragraph shall be filed as hereinbefore provided.~~
 14 ~~When so made such order in sub. (2)(c) and shall be of have the same force and effect~~
 15 ~~as an order made in connection with the original laying out of such the highway.~~

16 ~~(c) Any written order or agreement made before August 27, 1947 made by a~~
 17 ~~majority of the supervisors of each town concerned, acting together, apportioning or~~
 18 ~~reapportioning a town line highway is hereby validated and shall be of ^{have} the same~~
 19 ~~force and effect as though ^{orders} made after said date August 27, 1947. Where flowage~~
 20 ~~crosses and covers a portion of a town line road, then that part of such order which~~
 21 ~~previously fixed their respective liabilities shall be deemed vacated.~~

22 ~~(4)(a)(intro.) If by any change of the boundaries of either or both such towns~~
 23 ~~including that caused by flowage the The part of an order fixing the liabilities of~~
 24 ~~towns in regard to a town line highway shall be considered vacated in the event of~~
 25 ~~the occurrence of any of the following:~~

(end insert)
4-21

Insert
13-7

CS
Section # 80.24 (2) of the statutes is amended to read

80.24 (2) An owner of lands through which a highway is laid out, widened, altered or discontinued who has appealed under s. 80.17 from the order laying out, widening, altering or discontinuing the highway and who is not satisfied with the award of damages under s. 80.09 may, within 30 days after the entry of a final order on the appeal affirming the order, appeal to the circuit judge^y for a jury to assess the damages.

court of the
county ✓

History: 1977 c. 449; 1995 a. 225.



CS (Intro-) and (a) are consolidated, renumbered 80.24(5) and
Section # 80.24 (5) of the statutes is amended to read:

At least 6 days before making an appeal under this section, the
80.24 (5) The appellant shall serve on 2 of the supervisors of the town in which the highway is
situated, or upon 2 or more of the supervisors or commissioners of the town, city or village who have
been assigned the duty of paying the damages for the land, at least 6 days before making the appeal,
a notice in writing, specifying the following: NO
✓ shall state the
(a) The name of the judge to whom the appeal will be made, and the date and time
at which the appeal
will be heard

(b) The time when the appeal will be made.

(c) The place where the appeal will be made.

History: 1977 c. 449; 1995 a. 225.

CS Section #. RP; 80.24(5)(b) and (c) ✓

(end insert)

LRB - 0115/pldn
:Kmg:

Bruce Munson:

¶ 1. Please read ^{close} the first sentence of proposed
§ 80.12 (3). I'm not sure that it does not change
current law.

¶ 2. Please review ^{close} your treatment of § 80.32 ~~and~~.

This section is ambiguous and I do not know whether you have
changed its meaning. Specifically, ^{(in § 80.32(4))} are the ~~rights~~
"rights incidental thereto," ^{rights}
in the easement, or in the highway? Your draft decides that
those rights are ^{incidental to} the highway, not to the easements. This
~~proposition~~ should probably not be treated unless you are
certain of your interpretation. I have not ^{res} researched ^{case law}
on § 80.32.
case

-PEN